

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 06-1867

THOMAS J. DEBENEDICTIS,
ON BEHALF OF HIMSELF AND
ALL OTHERS SIMILARLY SITUATED,
Appellant
v.

MERRILL LYNCH & CO., INC.;
MERRILL LYNCH, PIERCE, FENNER & SMITH, INCORPORATED;
MERRILL LYNCH GROUP, INC.;
FAM DISTRIBUTORS, INC.;
MERRILL LYNCH INVESTMENT MANAGERS, L.P.;
FUND ASSET MANAGERS, L.P.;
PRINCETON SERVICES, INC.

On Appeal from the United States District Court for the District of New Jersey
D.C. Civil Action No. 04-cv-00404
(Honorable Jose L. Linares)

Argued April 23, 2007
Before: SCIRICA, *Chief Judge*, FUENTES, and ALARCÓN,* *Circuit Judges*.

JUDGMENT

The cause came to be heard on the record from the United States District Court for the District of New Jersey and was argued by counsel on April 23, 2007.

*The Honorable Arthur L. Alarcón, Senior Judge of the United States Court of Appeals for the Ninth Circuit, sitting by designation.

On consideration whereof, it is now here ORDERED AND ADJUDGED by this Court that the opinion and order of the said District Court entered February 21, 2006, be, and the same is, hereby AFFIRMED. All of the above in accordance with the opinion of this Court.

ATTEST:

/s/Marcia M. Waldron
Clerk

DATED: June 18, 2007